



Board of Inquiry
(Police Services Act)

**ANNUAL
REPORT**

1995



Ontario



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BOARD OF INQUIRY
(POLICE SERVICES ACT)

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TABLE OF CONTENTS

	Page
Section 1 Introduction to the Board of Inquiry	1
Section 2 Message from the Chair	3
Section 3 Case Statistics	5
Section 4 Review of Cases and Decisions	7
Section 5 Index of Decisions and Rulings	9
Section 6 Hearing Dates and Locations	11
Section 7 Board of Inquiry Members	12
Section 8 Board of Inquiry Office and Staff	23
Section 9 1995 Board Training Conference Agenda	24
Section 10 Conflict of Interest Guidelines	25
Section 11 Code of Conduct (<i>Police Services Act</i>)	27
Section 12 Distribution of Board Decisions and Information	31

Section 1 Introduction to the Board of Inquiry

The Board of Inquiry was established in 1992, to conduct hearings into complaints made by members of the public about the conduct of police officers. The public complaints process set out in Part VI of the *Police Services Act* covers all municipal and regional police officers in Ontario, as well as the Ontario Provincial Police, but not First Nations Constables (appointed by the O.P.P. Commissioner).

Before 1992, in Metro Toronto only, there were *ad hoc* boards of inquiry, which had no overall chairperson and no office. This was the beginning of civilian review of police conduct in 1981, under the *Metropolitan Toronto Police Force Complaints Act*. The current Board has a full-time Chair and staff to handle case management, Board member selection and training, and so forth.

Members of the public do not make their complaints directly to the Board of Inquiry. Complaints are made to a police force or the Police Complaints Commissioner. The police force's public complaints bureau investigates the complaint, with monitoring by the Police Complaints Commissioner, although the Commissioner may also conduct the investigation directly. Only a small percentage of the public complaints actually reach the stage of a Board of Inquiry hearing. The Board may hear a complaint only in one of the following ways:

1. A chief of police may order a Board hearing after reviewing the report of the investigation of a public complaint;
2. The Police Complaints Commissioner may order a Board hearing after reviewing a chief of police decision or an internal disciplinary hearing decision; or
3. A police officer may appeal to the Board when a penalty is imposed after an internal disciplinary hearing arising out of a public complaint.

The parties in a Board hearing include the police officer, the Police Complaints Commissioner, and the complainant, as well as the chief of police if the case is an appeal by a police officer. A three-member Board hears evidence and submissions from the parties. Hearings are not quite as formal as court proceedings, and a wider range of evidence may be admitted. The Board has developed Rules of Practice to give the public a clear understanding of the Board's hearing process, and to help all parties to participate in a fair and effective manner.

The *Police Services Act* states that the Board may find a police officer guilty of misconduct only if there is "clear and convincing evidence". Misconduct is defined in the Act as a violation of certain provisions of the Act or regulations, including the Code of Conduct which is part of the regulations. Where the Board finds misconduct, it has the power to impose a penalty ranging from a reprimand to loss of pay or days off, suspension, demotion or dismissal.

Board of Inquiry hearings are open to the public. In exceptional circumstances, where there are reasons relating to public security, or intimate or personal matters, the Board may decide to hold all or part of a hearing in private. Hearings are generally held in the same city or area where the complaint originated.

Written decisions with full reasons are issued in all cases, although some hearings may have oral decisions or reasons first. A copy of the decision is given to each party and is available to the public. A party has the right to appeal a decision of the Board to the Divisional Court.

The Board of Inquiry consists of the full-time Chair, the Board Office staff and a panel of up to 60 part-time members from eight regions covering the Province of Ontario. These members are appointed by Order-in-Council (cabinet). One third of the members are lawyers, appointed upon the recommendation of the Attorney General. The remaining two thirds, who cannot be lawyers or police officers, are appointed on the recommendation of either the Association of Municipalities of Ontario (AMO) or the Police Association of Ontario (PAO). For each hearing, the Chair of the Board assigns one member from each of the three groups, with the lawyer member as the presiding officer.

Where the complaint is against a chief of police, the Act says that the Chair of the Board may appoint a person who is recommended by the Ontario Association of Chiefs of Police (OACP) to be one of the three Board members hearing the case. This special appointment would take the place of the PAO-recommended Board member.

The Board of Inquiry functions independently from the police and from the Police Complaints Commissioner. Although the Board's budget is provided through the Ministry of the Attorney General, the Board is a quasi-judicial tribunal and it carries out its adjudicative function without any direction from the government.

The Board heard its first case in September 1992. As of December 31, 1995, the Board had completed 91 out of 94 cases. The 17 cases involving appeals by officers, from misconduct findings or penalties at internal disciplinary hearings, had mixed results. The remaining 74 completed cases included 37 in which the allegations were dismissed after a hearing and 15 cases involving a withdrawal, resignation, settlement or stay of proceedings. In 22 cases, the Board made a finding of misconduct.

For the 25 officers who faced penalties, 11 officers had a penalty of a reprimand. Fourteen officers faced penalties ranging from one day to twelve days in terms of forfeiting days off, forfeiting pay or suspension without pay. Two officers were demoted for one year. A full statistical summary may be found in this Annual Report.

Section 2 Message from the Chair

The Board of Inquiry is a crucial part of the system of civilian oversight of police in Ontario. It is also one of many agencies in the administrative justice system, which is part of the Government of Ontario. All three of these areas (civilian oversight of police, administrative justice agencies, and the government) are in the midst of accelerating changes and challenges. We face the pressures of meeting the demand for public service and accountability in an era of major financial restraint.

In 1995, despite the absence of referrals from the Police Complaints Commissioner, the Board was very active in completing 27 cases, which included a number of referrals from chiefs of police and appeals from police officers. This past year was also marked by several highly publicized and controversial hearings.

In 1996, we look forward to the opportunities provided by the pending review of the area of civilian oversight of police. There is a recognized value in having independent external scrutiny of police, which will enhance public trust and accountability. But restructuring and major changes are expected in all agencies and tribunals, and indeed, in all of government.

Board Members

The *Police Services Act* requires three different types of Board members. This diverse composition of the Board significantly adds to its credibility and legitimacy, especially since almost all of the Board's decisions are unanimous. I continue to be impressed with how well the Board members work together, and their sense of responsibility and fairness. I thank all of them for their contribution to the civilian oversight of policing.

We sadly miss Board member John Robinson (London), who passed away in October 1995. John had a full life which exemplified the highest ideals of public service, and we are proud that he was part of the Board.

The appointments process and Board member training are the two most important factors in ensuring excellent performance. Board members regularly receive information from the Board Office, and they attend annual training conferences. The Board member appointments process involves recruitment, interviews by a panel and a written exercise. In 1995, I had the pleasure of working with Don Auger (Thunder Bay), and David Griffin (Administrator, Police Association of Ontario) in the process of filling several vacancies in the northern regions.

Board Administration and Hearing Procedures

The Board Office consists of the full-time Chair, and three permanent staff, as well as one or two part-time staff. The Registrar, Gerri Maynard, has been on leave since June 1995, and we look forward to her return some time in 1996. Farideh Ostadi is the Acting Registrar. The other staff for 1995 were Ruth John, Shailendra Babbar and Lucy Calderaro. I wish to express my appreciation to all of these staff members for their hard work and contribution.

The Board's Rules of Practice are being revised for February 1996, following a wide distribution of draft Rules for review and input from many affected stakeholders. This initiative arose from amendments to the *Statutory Powers Procedure Act* in 1995, which clarified and increased the powers of tribunals to make rules, especially with respect to pre-hearing conferences, disclosure, written hearings and electronic hearings.

As part of the revised Rules, the Board has several provisions dealing with settlement or informal resolution. In 1995, two cases were settled by informal resolution, including one which followed a settlement conference presided over by a Board member. The Board will continue to develop its procedures and expertise in alternative dispute resolution (ADR). We are committed to dealing with our cases in a fair and expeditious manner.

The Wider Context

The Board receives cases and conducts hearings in settings which are fairly controversial, highly public and often adversarial. The Board members assigned to a hearing must balance many considerations in conducting a fair and effective hearing. In its adjudication, the Board must remain independent from the police, the Police Complaints Commissioner, complainants and the government. But the Board must still be accountable to the public through its administration, Board member appointments, open hearings and procedures, and so forth.

As the Chair of the Board, I maintain communications with the stakeholders in the civilian review system, such as the Police Complaints Commissioner, the Police Association of Ontario, the Ontario Association of Chiefs of Police, the Ministry of the Attorney General, various community groups, and others involved in police oversight from across Canada. I have also been very active in the wider administrative justice community, through my work with the Circle of Chairs, the Board of SOAR (Society of Ontario Adjudicators and Regulators), and assisting in the training of adjudicators. The administrative justice community in Ontario has made impressive progress in training, and in sharing and co-ordinating resources.

As tribunals seek to provide adjudicative services under major financial restraints, some may be standing on the precipice, trying to hold firm to values such as fairness, efficiency, impartiality and accessibility. However, at the same time, there has never been a more promising opportunity to achieve major changes in structure, policy and legislation – changes that can improve the entire system of administrative justice in general, and civilian review in particular. The government's focus on core functions will highlight the need for an independent tribunal, external to the police, which has final adjudicative powers to resolve public complaints against police. Such a tribunal can uphold public confidence in our police, whether a police officer is held responsible for wrongdoing or absolved of the allegations.



Gary Yee
Chair
1995

Section 3 Case Statistics

HEARING TYPES PCC = referred by Police Complaints Commissioner

CH = referred by chief of police

AP = appealed by police officer

	PCC	CH	AP	TOTAL
I. NEW CASES:				
1992	23	10	6	39
1993	23	4	5	32
1994	9	3	4	16
1995	0	2	5	7
TOTAL	55	19	20	94

II. COMPLETED CASES:				
1992	5	4	1	10
1993	22	5	7	34
1994	15	3	2	20
1995	13	7	7	27
TOTAL	55	19	17	91

III. OUTSTANDING CASES:				
(as of December 31, 1992)	18	6	5	29
(as of December 31, 1993)	15	5	3	23
(as of December 31, 1994)	13	5	5	23
(as of December 31, 1995)	0	0	3	3

IV. NUMBER OF HEARING DAYS:

1992	37
1993	133
1994	119
1995	80

V. CASE RESULTS (Completed Cases)

	1992	1993	1994	1995	TOTAL
	number of cases				
REFERRALS (BY PCC OR CHIEF):					
WITHDRAWN	1	1	0	3	5
INFORMAL RESOLUTION	1	1	0	2	4
OFFICER RESIGNED	1	0	0	1	2
ALLEGATION DISMISSED	3	14	13	7	37
MISCONDUCT FOUND	2	10	4	6	*22
HEARING STAYED	1	1	1	1	4
Subtotal	9	27	18	20	74
OFFICER APPEALS:					
APPEAL DISMISSED	0	3	1	4	8
APPEAL ALLOWED	0	2	1	2	5
WITHDRAWN BY OFFICER	1	1	0	1	3
HEARING STAYED	0	1	0	0	1
Subtotal	1	7	2	7	17
TOTAL	10	34	20	27	91

* 22 cases involving 27 officers
(including 2 with misconduct decisions
later set aside by Divisional Court)

VI. PENALTY TYPES (Completed Cases)

	1992	1993	1994	1995	TOTAL
	number of officers				
REPRIMAND (with no other penalty)	2	2	1	6	11
FORFEIT DAYS OFF	0	*2	0	0	2
FORFEIT DAYS' PAY	0	*6	**3	0	9
SUSPENSION	0	*1	0	0	1
DEMOTION	0	*1	0	***1	2
DISMISSAL	0	0	0	0	0
TOTAL	2	12	4	7	25

(*) details of 1993 penalties
 - forfeit days off (2 officers - 5 days, 6 days)
 - forfeit days' pay (6 officers - 1 day (2 officers), 3 days, 5 days (3 officers, including 2 with penalties later varied by Divisional Court to forfeiture of 5 days off))
 - suspension (12 days)
 - demotion (from senior constable to second class constable for one year)

(**) details of 1994 penalties
 - forfeit days' pay (3 officers - 1 day, 2 days, 3 days)

(***) details of 1995 penalties
 - demotion (from first class constable to second class constable for one year)

Section 4 Review of Cases and Decisions

Most common allegations — An analysis of all of the Board cases up to the end of 1995 reveals 59 cases in which the Board heard evidence (this excludes the 17 officer appeal cases and the 15 cases which ended upon a withdrawal, informal resolution, resignation of the officer or the Board granting a preliminary motion to stay). Of the 59 cases, 22 closed with a finding of misconduct against one or more police officers.

The most common allegations made against the police officers in these 59 cases were:

1. Acting in a discreditable manner (s. 1(a)(i) of the Code of Conduct)
— 35 cases (12 cases with findings of misconduct)
2. Unnecessary violence (s. 1(g)(ii) of the Code of Conduct)
— 22 cases (4 cases with findings of misconduct)
3. Neglecting to perform a duty (s. 1(c)(i) of the Code of Conduct)
— 12 cases (3 cases with findings of misconduct)
4. Unlawful or unnecessary arrest (s. 1(g)(i) of the Code of Conduct)
— 10 cases (5 cases with findings of misconduct)
5. Unnecessary or improper use of firearms (see regulations)
— 5 cases (2 cases with findings of misconduct)

The allegations of misconduct under the heading of "acting in a discreditable manner" ranged widely from inappropriate language to unreasonable search.

Discriminatory conduct — A detailed analysis of all of the Board cases, excluding officer appeals, showed nine cases in which the Statement of Alleged Misconduct had particulars involving discriminatory conduct, usually remarks of a racial, native or religious nature. In one case, the very first decision of the Board in October 1992, the Board found that racist remarks had been made but there was no clear and convincing evidence linking the remarks to any particular officer. In four other cases, there was a finding of misconduct (with reprimands given in all four cases). This includes a 1995 case involving a Staff Sergeant failing to remove an offensive item posted in the O.P.P. Moosonee Detachment (the officer has appealed this decision).

In three cases completed in 1995, there were no allegations of racism in the Statement of Alleged Misconduct, but at the hearing or preliminary motions, the parties raised the issue of the officers being accused of racism. One of the cases (in Ottawa-Carleton) resulted in a comprehensive settlement in the early stages of a Board hearing. Two Toronto cases resulted in a full hearing with the allegations being dismissed. The complainant is appealing the case involving an alleged improper strip-search. The Police Complaints Commissioner is appealing the case involving alleged improper actions in stopping a complainant after reports of gunshots.

Unnecessary violence — The most serious penalties handed out by the Board (excluding officers appealing from internal decisions) have been in the four cases involving unnecessary violence or excessive force. In a 1993 Timmins case, an officer was suspended without pay for 12 days. In a 1993 Sault Ste. Marie case, the penalty was suspension without pay for three days, but the Board's decision was set aside on the officer's appeal to Divisional Court.

In two cases, where the Board found that the complainants had suffered serious injuries, the constables were demoted for a period of one year. One of these was a 1993 Toronto case, which was upheld by the Divisional Court on appeal by the officer. The other case was in 1995, involving an O.P.P. officer who used his flashlight to strike, with considerable force, the complainant's head in the course of an arrest in Orangeville. The officer has appealed the Board's decision.

Informal resolution — In 1995, the Board saw an increase in the number of cases which were completed without a full Board hearing (8 out of 27). In a Thunder Bay case, a Board member presided at a settlement pre-hearing conference, which resulted in an informal resolution. In another case, from Ottawa-Carleton, the Board stated its preference for informal resolution, rather than the complainants' withdrawal of the complaint, even though the complainants had reached a comprehensive settlement of their civil action against the officers and police force. An informal resolution would ensure some public interest component in the settlement process, through the participation of the Police Complaints Commissioner.

Divisional Court Appeals and Judicial Reviews — Out of the 91 cases completed by the Board of Inquiry, almost one third (29 cases) have led to some court action to challenge the Board's decision. A party has a right to appeal the final decision of the Board to Divisional Court. A party may also seek judicial review of an interim motion ruling made by the Board. At least 20 Board hearings have involved motions made by the police officer to stay (or halt) the proceedings on various grounds involving the jurisdiction of the Board.

In 1995 and the first few weeks of 1996, the Divisional Court dismissed six appeals from Board decisions, and two judicial review applications. One appeal was allowed, leading to a Board's finding of misconduct being set aside. The statistics show that the police officer has appealed a negative Board decision in slightly over one half of the cases (17 out of 31 final decisions against the police officer).

Section 5 Index of Decisions and Rulings

[This is a listing of 1995 decisions and rulings, by file name only, arranged in chronological order. For detailed summaries, please refer to the Board's Case Summaries.]

<u>BOARD FILE NO.</u>	<u>OFFICER(S)</u>	<u>COMPLAINANT(S)</u>
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HEARING DECISIONS

PC003/94	Wiles	Vesna
CH009/94	Dunlop	D.S.
PC038/93	Morrell/Fogg/Gotha	Brazeau
PC050/93	McCann/Ritchie	Cousins
PC014/94	Delaney	Girard
PC004/94	Ayotte	Fleming
PC015/94	St. Pierre/Jones	Kingsberry
PC056/93	Shaw/Rukavina	Lane
CH011/94	Malynowskyj	Howell/Leacock
C053/93	Peters/Dulmage/Sommer	Smith
CH012/94	Hannah/Smith	Drummond
CH002/95	Johnson/Brown-Hollett	Heaslip
PC039/93N	Vammus/Picavet	Brown/Brown/Brown

WITHDRAWN OR SETTLED (NO COMPLETED HEARING)

A048/93	Diebel	Langridge
PC013/94	Quinn	Gibson
PC007/92	Fenato	Nadir
C049/93N	Burns	Shields
CH001/95	Watts	Powell Urquhart
PC036/93	Hayes/Munro/Aikens	Gardner/Gardner/Brown
PC035/93	Monette	Gardner/Gardner/Brown

<u>BOARD FILE NO.</u>	<u>OFFICER(S)</u>	<u>COMPLAINANT(S)</u>
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PENALTY DECISIONS

PC003/94	Wiles	Vesna
PC038/93	Morrell/Fogg/Gotha	Brazeau
PC015/94	St. Pierre	Kingsberry
PC004/94	Ayotte	Fleming
PC056/93	Rukavina	Lane

APPEAL DECISIONS

AP008/94	Lock	MacKinnon
AP005/94	Calder	Funnell
AP010/94	Collins	Girard
AP016/94	Johnson	Harris
AP003/95	Elliott	Terrio
AP004/94	John	Reynolds-John/Nelles

MOTION RULINGS

AP005/94	Calder	Funnell
CH012/94	Hannah/Smith	Drummond
PC035/93	Monette	Gardner/Gardner/Brown
PC014/94	Delaney	Girard
PC007/92	Fenato	Nadir
PC036/93	Hayes/Munro/Aikens	Gardner/Gardner/Brown
PC036/93	Hayes/Munro/Aikens	Gardner/Gardner/Brown
PC039/93N	Vammus/Picavet	Brown/Brown/Brown
PC036/93	Hayes/Munro/Aikens	Gardner/Gardner/Brown
PC036/93	Hayes/Munro/Aikens	Gardner/Gardner/Brown
PC036/93	Hayes/Munro/Aikens	Gardner/Gardner/Brown
PC035/93	Monette	Gardner/Gardner/Brown
CH002/94	Johnson/Brown-Hollett	Heaslip
PC039/93N	Vammus/Picavet	Brown/Brown/Brown
C053/93	Peters/Dulmage/Sommer	Smith

Section 6 Hearing Dates and Locations

1995

TORONTO

January 23-27
February 6, 8
March 29-30
April 25-28
May 17-19 and 29
June 2
July 25-26
August 1

EAST

March 27 (Nepean)
March 28-29 (Ottawa)
April 3-7 (Ottawa)
May 23-26 (Ottawa)
July 4-6 (Ottawa)

CENTRAL SOUTH

October 23 (St. Catharines)

SOUTHWEST

January 17 (Tecumseh)

CENTRAL WEST

February 27-28 (Caledon)
March 1-3 and 6 (Caledon)
May 8-12 and 15-16 (Brampton)
September 11-14 and 26-28 (Brampton)
October 30 (Caledon)

NORTHEAST

January 10-13 (Moosonee)
November 27 (Sault Ste. Marie)

CENTRAL EAST

February 13-17 (Oshawa)
March 6-9 (Oshawa)
March 6-7 (Lindsay)
May 4 (Pickering)
August 22-24 (Lindsay)

NORTHWEST

April 19 (Thunder Bay)

Total number of hearing days — 80

Section 7 Board of Inquiry Members

Keith Aiken (Toronto - Toronto Region) (term expired September 24, 1995)

Keith Aiken retired from the Metro Toronto Police Force in 1992. During his policing career, he worked in several Toronto divisions, had responsibility for liaison with police auxiliaries, and instructed at the Toronto Police College. Mr. Aiken is a volunteer and speaker for the Diabetes Association and the Royal Ontario Museum.

Ramon Andal (Toronto - Toronto Region)

Ramon Andal practises litigation and insurance law at the large firm of Cassels, Brock and Blackwell. He was called to the Bar in the Philippines in 1982, and the Ontario Bar in 1989. Mr. Andal is co-editor of the firm's Insurance Newsletter and co-author of the revised Insurance Law title of the Canadian Encyclopedic Digest (Ontario and Western editions) with the Insurance Bureau of Canada. He is also active in the Filipino Canadian community, and is counsel to the Kababayan Community Centre.

Nancy Backhouse (Toronto - Toronto Region) (appointed March 22, 1995)

Nancy Backhouse was called to the Bar in 1979 and is certified by the Law Society of Upper Canada as a specialist in Family Law. She is a Bencher of the Law Society, a Director of the Advocates' Society, and a member of the executive of the Family Law Section of the Canadian Bar Association-Ontario. Ms. Backhouse is a Labour Arbitrator and a Vice-Chair of the Ontario Crown Employees Grievance Settlement Board. She has contributed to numerous continuing legal education programs, and she has taught at the Bar Admissions Course and at Osgoode Hall Law School.

Douglas Baker (Toronto - Toronto Region)

Douglas Baker retired from the Metro Toronto Police Force in 1982 and became a field service officer for the Bank of Montreal. From 1985 to 1990, he was an inspector for the Governing Board of Denture Therapists, which handles disciplinary matters for members of that profession. Mr. Baker has been active in his church, and he is a substitute driver for Meals on Wheels.

C. Richard Baker (Scarborough - Toronto Region)

Richard Baker worked as a security investigator for a trust company after retiring from the Metro Toronto Police Force in 1990, and he now is a private security consultant with several financial institutions and companies. While a police investigator, he was assigned to the Royal Commission which studied the Don Jail, and to the Niagara Police Inquiry. Mr. Baker has been active in sports organizations.

B. George Blake (Oshawa - Central East Region)

Dr. George Blake is a graduate of the University of Edinburgh. He retired as Director of the Department of Psychology, Oshawa General Hospital in 1987. Much of his career was spent in management of behavioural disorders, including alcoholism. Dr. Blake is a regular contributor to the speakers bureau of the Canadian Mental Health Association. In addition to his involvement in photography, he is a busy storyteller, with a special interest in the study of folklore and mythology.

Kathryn Boyd (Newmarket - Central East Region)

Kathryn Boyd is a partner in a general law practice in Newmarket. Her emphasis is on all aspects of family law, but she has also done criminal work, and has appeared before administrative tribunal hearings. Ms. Boyd has made a major contribution to community life: chairing the Newmarket United Way, lecturing at a community college, teaching at a private school, and serving on boards for Big Sisters, men's and women's shelters, a museum and her church.

Ken Brooks (Chatham - Southwest Region)

Ken Brooks was in a general legal practice until 1985, when he became the Executive Director of Legal Assistance Kent. His legal clinic practice is in administrative law on behalf of low-income persons, with a role in public legal education and law reform activities. He is active in community life, having served on municipal council and numerous municipal committees. Mr. Brooks was involved with a local half-way house, and a transition house for street kids. He is active at the local and the Diocesan levels of his church. Mr. Brooks is currently the Vice-Chair of the Lower Thames Valley Conservation Authority and President of the Lower Thames and St. Clair Region Conservation Foundations.

Roy Burkett (Barrie - Central East Region) (term expired July 21, 1995)

Roy Burkett was a member of the Ontario Provincial Police for 38 years. When he retired in 1987, he had attained the rank of District Superintendent. During his career, he gained experience both as a prosecutor and as a hearings officer in police disciplinary cases. Mr. Burkett was the Chair of the board of MacMillan House, a community resource centre for convicted men in Barrie.



Photographs by George Blake

Meryle Cameron (Ottawa - East Region)

Meryle Cameron retired from the Ottawa Police Force in 1989. He is a past president of the Ottawa Police Association, the Ontario Police Association, and the Canadian Police Association. Mr. Cameron served for many years on the board of a boys' camp, and is now a member of the Board of Trustees of the City of Ottawa Superannuation Fund.

Jennifer Carten (Keewatin/Kenora - Northwest Region)

Jennifer Carten was called to the Bar in 1979. Moving to Kenora in 1981, Ms. Carten worked for both the Kenora Community Legal Clinic and the Ombudsman of Ontario before joining her husband in private practice in 1987. Since 1988, she has served as an Area Director for the Ontario Legal Aid Plan. Ms. Carten is active in the Kenora District Law Association. She is a Small Claims Court Deputy Judge. Ms. Carten volunteers time to her children's schools and sports.

Winston Charles (Etobicoke - Toronto Region)

Winston Charles is a Senior Researcher and Policy Analyst for Global Research Group, a social and behavioural research firm. After serving as special advisor to the Dean and Associate Dean of Atkinson College, York University, on issues of co-operative education policies, he worked as a policy consultant with a particular interest in employment equity, organization effectiveness, and industrial relations. He is a trained mediator for labour disputes and a part-time adjudicator under the *Federal Income Security Act*. Mr. Charles is the executive producer of a bias-free decision making video training program for professional development, and Director of the Conflict Resolution Institute.

Pat Chilton (Moose Factory - Northeast Region) (term expired July 21, 1995)

Pat Chilton runs his own consulting business in the areas of health services, aboriginal issues, management and education. Previously, he was the director of the Queen's University Moose Factory program, where he lectured at the university, and worked on the recruitment of doctors to serve the north. Mr. Chilton was also the Executive Director of the Mushkegowuk Council from 1989 to 1991, and he previously worked for Health and Welfare Canada in Moose Factory, and the Department of Indian and Northern Affairs in the Northwest Territories. Mr. Chilton's community work has included native organizations, and hospital, community centre and child and family services boards for the James Bay and Hudson's Bay area.

Edward Clarke (Toronto - Toronto Region)

Edward Clarke has been very active in the community all his life. He was a member and secretary of the Toronto Negro Veterans Association from 1958 to 1989. Mr. Clarke was a founding director of the National Black Coalition, is a past president and director of the Universal Negro Improvement Association, and is a former credit union president. He was one of the founders of Springboard, which assists inmates preparing to re-enter the community. A retired letter carrier, Mr. Clarke was a union vice-president. Mr. Clark is an executive board member of The Black Secretariat of Toronto.

Russell Cooper (Inglewood - Central West Region)

Russell Cooper had a career as a journalist and then, for 26 years, as administrator of Black Creek Pioneer Village. He served on the Peel Region Police Commission from 1973 to 1985. He was on the provincial executive of the Association of Municipal Police Authorities, and on committees of the Ontario Police Commission. Mr. Cooper also served on a hospital board, and has been active in many local and provincial historical and heritage associations.

Fernando Costa (Toronto - Toronto Region)

Fernando Costa is a lawyer who has had an extensive law practice in Toronto's west end since 1977. Mr. Costa has served on numerous civic boards and committees. He is an active volunteer in non-profit organizations in the Portuguese Canadian community and is a past president of the Federation of Portuguese-Canadian Business and Professionals. He is also an advisor on racial and multicultural issues to the Chief Administrator's Office of the Municipality of Metropolitan Toronto.

Winston Davis (Trenton - East Region) (term expired October 21, 1995)

Winston Davis retired from his career in the armed forces in 1981, having attained the rank of Lieutenant Colonel. During his 31 years of military service, he gained international experience. He subsequently worked as a civilian communicator with the Trenton Police Force for seven years. Mr. Davis was on the Board of Quinte Crimestoppers for two years.

Leslie Doherty (Cambridge - Central South Region)

Leslie Doherty is a lawyer with a particular interest in administrative law. She was called to the Ontario Bar in 1984 and the Nova Scotia Bar in 1985. Ms. Doherty was in private practice for a number of years until taking a parental leave. She was appointed as Acting Chair of the Board on Inquiry from May to September, 1993. Ms. Doherty is an active community volunteer and continues to speak to community groups on legal topics and issues affecting women, education and families.

Frederica Douglas (Mississauga - Central West Region)

Frederica Douglas is employed by the Immigration and Refugee Board as an adjudicator on immigration matters. From 1992 to 1995, she was the President of the Mississauga Chapter, Congress of Black Women. Ms. Douglas is also a member of the Peel Multicultural Council. She is a member of the Advisory Committee – Change Your Futures Programme with the Peel Board of Education.

Peter Engelmann (Ottawa - East) (appointed January 26, 1995)

Peter Engelmann was called to the Bar in Alberta in 1982 and in Ontario in 1988. He is a partner in the Ottawa law firm of Caroline Engelmann Gotheil, which specializes in labour relations, human rights and employment law. He has also been Legal Counsel for the Canadian Human Rights Commission and the federal Department of Justice. Mr. Engelmann recently co-authored *Trade Union Law in Canada*. He has been teaching human rights and labour law courses since 1989 and has been active in a number of community and legal organizations.

Michelle Fuerst (Toronto - Toronto Region)

Michelle Fuerst is a prominent criminal lawyer and a partner in Gold & Fuerst. She is certified by the Law Society of Upper Canada as a Specialist in Criminal Litigation. Mr. Fuerst is the Vice-President of the Canadian Bar Association-Ontario, and the Past Chair of the National Criminal Justice Section, Canadian Bar Association. She is also a Trustee of the County of York Law Association and a former Director of the Advocates' Society. Ms. Fuerst is an instructor in Criminal Law and Evidence at Osgoode Hall Law School, and she also teaches at the National Criminal Law Program. Ms. Fuerst is the author of a number of legal articles and textbooks.

Sybil Garrick (Richmond Hill - Central East Region) (term expired July 21, 1995)

Sybil Garrick is an educator with a Masters in Education from the Ontario Institute for Studies in Education. She is the principal of an elementary school. She has worked particularly with West Indian parents groups. Ms. Garrick has been active in the Congress of Black Women, and was the Ontario representative on the national board from 1987 to 1991.

Arthur Gibbs (North York - Toronto Region)

Arthur Gibbs retired from the Metro Toronto Police Force in 1987 after 40 years of service. He was a director of the Metro Toronto Police Association for 30 years. While serving as a police officer, he was known for establishing personal contacts with members of the community. Mr. Gibbs is active in the life of his church, and he also volunteers at a hospital.



Robin Gilbert (Elora - Central West Region)

Rob Gilbert retired in 1994 after nine years as administrator for the Ontario Broiler Hatching Egg & Chick Commission. Previously, he was a member of the Ontario Provincial Police and Metropolitan Toronto Police Force for 34 years. In the last eight years of his police career, he was involved in the administration of an employee assistance and counselling program for police and civilian support staff. Mr. Gilbert presently chairs the Wellington County Library Board and is a Director of the Ontario Library Services Centre in Waterloo, Ontario. He is also a municipal affairs reporter for the Elora Sentinel and Fergus Thistle newspapers.

Eleanor Green (Windsor - Southwest Region)

Eleanor Green is retired from her 22-year employment as a secretary with Chrysler Canada Ltd. in Windsor. She has been active in the community for over 35 years. Ms. Green sits on the board of a housing co-op and of the Local Youth Network and Community Services Inc. She is also a volunteer for many organizations, including her church, the Children's Aid Society, the Victim/Witness Program, Windsor Black Coalition, United Way, the North American Black Historical Museum (Women's Auxiliary), the Local Organizing Coalition on Women's Issues in Training, and the Hour-A-Day Study Club.

Verna Hill (Deseronto - East Region)

Verna Hill, a retired teacher, completed her university degree while teaching full-time and raising a family. She was on the board of directors of the Federation of Women Teachers Associations of Ontario, and was made an honorary member. Ms. Hill is President of the Ontario Association of Superannuated Women Teachers. She is active in her church, and she is a hospital volunteer, including serving on the Board of Governors of Lennox and Addington General Hospital, Napanee. Ms. Hill speaks to various groups to promote a positive image of native people.

John Holmes (Etobicoke - Toronto Region) (term expired October 21, 1995)

John Holmes retired in 1983 after 34 years with the Metro Toronto Police Force. Subsequently, he worked as a field services manager for the Bank of Montreal for eight years. He was active in the organization of the Metropolitan Toronto Hockey League for many years, and received the "Chief of Police" award for special achievement in the community in 1983.

Katherine Jack (Toronto - Toronto Region)

Kathy Jack has an extensive leadership and working background in native self-government initiatives, especially in economic and planning areas. Ms. Jack also has served two years as Chief in her community of Ojibways of Onegaming First Nation. She has achieved university-level education and training in business management, administration, and computer. Ms. Jack is involved in issues concerning native women and the native traditional family.

David Jones (Wawa - Northeast Region)

David Jones is a Technical Specialist with Great Lakes Power Ltd. in Wawa. Prior to 1976, he was a member of the Royal Canadian Mounted Police, and served in Ontario and Newfoundland. Mr. Jones is a chair of the local Credit Union Board Council, and is active in raising money for various charitable causes.

Aranka Kovacs (Windsor - Southwest Region) (term expired September 24, 1995)

Dr. Aranka Kovacs obtained her Ph.D. in Economics in 1960, and taught at the University of Windsor for 30 years. She was active in university life, sitting on the Senate and numerous other committees. Dr. Kovacs has served on the executive of the Canadian Economics Association, and the Canadian Industrial Relations Association. She is currently involved in various committees dealing with disability issues, the Council on Aging, and retirement and women's organizations. Dr. Kovacs is also on the Board of Governors of St. Clair College.

Marvin Kurz (Brampton - Central West Region)

Marvin Kurz practises law in Brampton. His work involves a wide variety of civil and family litigation. Mr. Kurz also conducts mediation on behalf of the Canadian Dispute Resolution Corporation. He is currently the Ontario Legal Counsel of the League for Human Rights of the B'nai Brith of Canada. Mr. Kurz was previously the Chair of the Ontario Region of the League. He is involved in cross-cultural and human rights issues.

Eleanor Lancaster (St. Catharines - Central South Region) (term expired September 24, 1995)

Eleanor Lancaster was a regional councillor for the City of St. Catharines for nine years, until 1991. She has served in many aspects of community life, including the Consumers' Association of Canada, the Ontario Waste Management Steering Committee, the boards of Niagara College and Brock University, the board of Women's Place, and the North Niagara Legal Aid Committee. Ms. Lancaster was the first woman to serve on the Ontario Environmental Assessment Board.

Ross McLean (Chesley - Central West Region) (term expired September 24, 1995)

Ross McLean is a sole practitioner in Chesley, with 16 years of experience in general practice in the area. His legal work has brought him into contact with a number of issues related to policing. Mr. McLean has been active in the community – working with a group of native people to set up a group home, teaching community college courses, and serving on several local boards. Mr. McLean is immediate past President of the Bruce County Law Association.

W.A. Derry Millar (Toronto - Toronto Region)

Derry Millar was a part-time chair of the former board of inquiry established under the *Metropolitan Toronto Police Force Complaints Act*. He is a litigation partner with the law firm of Weir & Foulds. He is a member of the Civil Rules Committee under the *Courts of Justice Act*, and is co-author of the Ontario Annual Practice. Before practising law, Mr. Millar was a CUSO volunteer in Colombia for two years. He is a past president and director of the Ontario Cystic Fibrosis Camp and of the Low Vision Association of Ontario. Mr. Millar is the past Chair of the Ontario Centre for Advocacy Training. He is currently a Bencher of the Law Society of Upper Canada.

Lisa Moncrief (Keewatin - Northwest Region)

Lisa Moncrief is an active community volunteer and works at the local museum as the business manager. Lisa is a published author of prose and magazine articles and has recently had one of her plays performed by a local theatre company. She also operates a small but successful catering business from her home in her spare time.

M. Catherine Osborne (Toronto - Toronto Region) (term expired July 21, 1995)

Catherine Osborne has legal experience both in government and in private practice. Her practice focuses on labour and employment law, environmental law and human rights. Ms. Osborne is a partner in the firm of Fraser & Beatty, and she appears regularly before courts and administrative tribunals. Ms. Osborne has particular expertise in occupational health and safety and is a frequent speaker and writer on *Occupational Health and Safety Act* issues.

Janice Pay (Niagara-on-the-Lake - Central South Region)

Janice Pay served as a civilian member of the Niagara Regional Police Force for 27 years, before retiring in 1991. She now works part-time in a children's shop in Niagara-on-the-Lake. During her years on the force, she served on the executive of both the Niagara Regional Police Association and the Senior Officers' Association. Ms. Pay has been involved in several community organizations, including Partnerettes, an organization which provides companionship and leadership to troubled or under-privileged girls.

Jeremiah Peats (Waterloo - Central South Region)

Jerry Peats became a real estate agent in 1979, after working as a carpenter for many years. He has been active in his church community as an elder and lay counsellor. Mr. Peats has adjudicative experience through his role as Chair of the Discipline Committee of the Kitchener-Waterloo Real Estate Board. Mr. Peats is also the President of a businessman's fellowship and the President of the Kitchener-Waterloo Real Estate Board.

Judith Preston (Oakville - Central West Region) (term expired July 21, 1995)

Judie Preston, a former teacher, is a special assistant to an M.P.P. in Etobicoke. In Oakville, she chairs the Sister City Committee, which coordinates links with a city in Quebec and in Japan. Ms. Preston is also involved in the management of various election campaigns, as well as serving on the Oakville Prayer Breakfast Committee.

Cora Primicias (Toronto - Toronto Region) (term expired September 24, 1995)

Cora Primicias was formerly a congresswoman in the Philippines. She has an M.A. in literature, as well as a music degree in piano. Ms. Primicias is the Program Officer of the Silayan Community Centre, which provides community and social services for new immigrants. Ms. Primicias has 15 years of volunteer experience and is the member of the Social Planning Council of Metro Toronto, and the Committee on the Status of Women. She is the Secretary and Board Member of TAHANAN Housing Corporation (a non-profit organization).

Robert Reid (St. Catharines - Central South Region) (term expired July 21, 1995)

Robert Reid is an experienced trial lawyer. He has acted as defence counsel and as a part-time crown attorney in criminal matters, and he also acts as federal prosecutor under various statutes. Mr. Reid's main emphasis is civil litigation, including labour relations and employment law. As a trained mediator, he has an interest in alternative dispute resolution. Mr. Reid has occupied leadership roles in various community organizations, and he is active in his church.

Aline Richard (Kapuskasing - Northeast Region)

Aline Richard worked as a Hearing and Vision Technician at the Porcupine Health Unit from 1971 to 1991 in Kapuskasing. She is bilingual and has acted as a court translator. Until 1992, she was Chair of the board of directors for Centre Jeanne Sauvé (a small mental health centre for children). Ms. Richard is currently Vice-Chair of the Kapuskasing unit of the Canadian Cancer Society, as well as a long-time volunteer with the March of Dimes.

Ron Richards (Lindsay - Central East Region)

Ron Richards held a senior management position with a major manufacturer until taking early retirement. He is now a self-employed business consultant and permanent secretary-treasurer of the Kawartha Manufacturers Association, an organization he helped form to assist local manufacturers. Mr. Richards also serves as an employer representative on the Board of Referees, an appeal tribunal, for the Unemployment Insurance Commission. He is very active in a variety of volunteer activities.

Debra Robinson (Timmins - Northeast Region) (term expired September 24, 1995)

Debra Robinson carries on a private practice in Timmins. She serves as duty counsel along the James Bay coastal region, and as a member of Children's Lawyer personal rights panel. She lectures on legal topics in her community, and is a Director on the board of the Ontario Trillium Foundation, which grants lottery funds for social services. She is also a Designated Capacity Assessor, under the *Substitute Decisions Act*.

John Robinson (London - Southwest Region) (term expired July 21, 1995)

John Robinson retired from the London Police Services in 1988, after 30 years of service and having attained the rank of Inspector. He has lectured in Management Training Courses at the Ontario Police College. He was a founding member of the Co-ordinating Committee on Family Violence in London and the first recipient of the "John Robinson Award", which is presented annually for commitment to this field. Mr. Robinson is a former Trustee and Chair of the London Board of Education.

John Seychuk (Etobicoke - Toronto Region) (term expired October 21, 1995)

John Seychuk is the former president, and current senior principal, of a geo-engineering consulting firm which operates internationally. He was the 1991 recipient of the CP Rail Medal awarded by the Engineering Institute of Canada for contributions to the engineering profession. Mr. Seychuk has chaired the board of a community complex affiliated with his church. He was a member of the former board of inquiry under the *Metropolitan Toronto Police Force Complaints Act*, since 1986.

David Starkman (Maberly - East Region)

David Starkman was called to the Bar in 1980. He has been working as a full-time arbitrator and mediator since 1992, with experience in matters from the Education Relations Commission, the Ministry of Labour and the Ontario Insurance Commission. Mr. Starkman started his legal career in private practice as a labour lawyer. In 1985, he became the first General Counsel for the Workers' Compensation Appeals Tribunal; then he was appointed as a Vice Chair in 1988. Mr. Starkman is also an occasional lecturer and speaker at various seminars.

Peter Thomson (Toronto - Toronto Region) (term expired October 21, 1995)

Peter Thomson retired in 1988 after years of experience in management and senior personnel positions with Imasco and UCS. After retiring, he volunteered as a career counsellor for unemployed persons. He also serves as an Area Captain for the Salvation Army Red Shield Appeal, as well as a Meals on Wheels volunteer. Mr. Thomson is a chair on the Board of Referees which conducts hearings under the *Unemployment Insurance Act*, and he was a member of the former board of inquiry under the *Metropolitan Toronto Police Force Complaints Act*.

Nhung Tomkins (Ottawa - East Region)

Nhung Tomkins was educated in both Vietnam and Montreal. She holds a bachelor degree in Business Administration and a Diploma in Philosophy and Literature. She was the Executive Director of Les Guides Catholiques du Canada, Diocese d'Ottawa from 1985 to 1989. She is very involved in the Vietnamese Canadian community in Ottawa, especially in family violence, refugees, and women's issues. Ms. Tomkins is trilingual (English, French and Vietnamese).

Marek Tufman (Woodbridge - Central East Region)

Marek Tufman resides in Woodbridge and he has been a civil litigator with his own firm in Toronto since 1977. In addition to his legal practice, he is an adjunct professor at York University, teaching law at Atkinson College, and he lectures in the Bar Admission Course. In the early 1970s, Mr. Tufman taught law in Papua New Guinea. Mr. Tufman organized and participates in a free legal clinic for members of the Polish Canadian community.

Rose Voyvodic (Windsor - Southwest)

Rose Voyvodic was called to the Bar in 1984. Since 1988, she has been the Executive Director of Legal Assistance of Windsor, a legal aid clinic administered by the Faculty of Law of the University of Windsor. Ms. Voyvodic has been a lecturer at the University of Windsor Faculty of Law since 1984. She is an Area Committee Member of the Ontario Legal Aid Plan, and she is on the Board of the Women's Enterprise Skills Training. Ms. Voyvodic is a former member of the Employment Equity Advisory Board of Windsor Police Services.

Barbara Morland Wellard (North Bay - Northeast Region)

Barbara Morland Wellard has practised in North Bay for the past 15 years. Her concentration is in the area of family law, although she has done criminal law work in the past, and has appeared before various administrative tribunals. Ms. Wellard chairs the board of a transition home for battered women and their children, and she has served on numerous other community boards.

Frances Wesley (Thunder Bay - Northwest Region)

Frances Wesley has been very active in her community of Thunder Bay, and she has served on many boards and committees. She was a Co-Chair of the Race Relations Advisory Committee with the Thunder Bay Police Force and past President of the Thunder Bay Indian Friendship Centre. She is the former education consultant for Mattawa First Nations and past Director of Administration for Kinna-Aweya Legal Clinic. She continues to work with young aboriginal people to promote the importance of education.

Gary Yee (Chair)

Gary Yee has an LL.M in Law and Regulation and he has taught administrative law at the Bar Admissions Course and at a community college. Mr. Yee was previously Assistant Director (managing legal services) at the Ombudsman of Ontario, and Executive Director of the Metro Toronto Chinese & Southeast Asian Legal Clinic. He has an extensive volunteer background in the Chinese Canadian community and human rights groups. Mr. Yee was a Director of the Ontario Trillium Foundation and a member of the former board of inquiry (*Metropolitan Toronto Police Force Complaints Act*). He is on the Board of the Society of Ontario Adjudicators and Regulators (SOAR), and active in administrative justice issues and tribunal member training.



Section 8 Board of Inquiry Office and Staff

The Board of Inquiry Office is located at: 180 Dundas Street West
Suite 1607
Toronto, Ontario
M5G 1Z8

Telephone: (416) 325-6262
Fascimile: (416) 325-6266

The Toronto-area hearings are held in a hearing room adjacent to the Board Office.

In 1995, the following staff worked at the Board Office:

Registrar	- Gerri Maynard
Hearings Administration Coordinator (and Acting Registrar)	- Farideh Irandoust (Ostadi)
Secretary	- Ruth John
Office Clerk (part-time)	- Shailendra Babbar
Summer Student	- Lucy Calderaro

Standing: Gary Yee

Seated from left to right:
Ruth John
Farideh Irandoust (Ostadi)
Shailendra Babbar



Section 9 1995 Board Training Conference Agenda

November 2, 1995 (Presiding Chairs only)

1. Divisional Court Cases, Appeals
2. New Board Rules of Practice
3. Board Decisions – Improving Timeliness
4. Motions to Stay – Abuse of Process, Breach of Fairness
5. Other Legal Issues

November 3 and 4, 1995 (entire Board)

1. Community Policing
 - Deputy Chief Bob Kerr, Metro Toronto Police
 - Anna Willats, Community Policing Action Coalition
2. Ontario Association of Chiefs of Police
 - Chief Randy Martin, Lindsay Police (Chair, Committee on Civilian Oversight of Complaints and S.I.U.)
3. Investigations by the Public Complaints Bureau of the Police Force
 - Inspector Don Thom, Ontario Provincial Police
 - Chief Randy Martin, Lindsay Police
 - David Griffin, Administrator, Police Association of Ontario
4. The Hon. Gerald Lapkin, Police Complaints Commissioner
5. New Board Rules, SPPA Changes, Legal Update/Trends
6. Informal Resolutions
 - Mark Conacher, Executive Director, Police Complaints Commissioner
 - Acting Superintendent Don Mantle, Metro Toronto Police
 - John Miller, Chairman of the Board, Police Association of Ontario
 - David Starkman, Board of Inquiry
7. Police Force Regulations and Guidelines
 - Acting Staff Inspector Tom Dalzeil, Metro Toronto Police
8. "Judicial Awareness: Race, Culture and the Courts"
[training video from National Judicial Institute]
 - Pat Case, Equal Opportunity Office, Toronto Board of Education
 - Rose Voyvodic, Board of Inquiry
9. Hearing Situations – Sharing Experiences

Section 10 Conflict of Interest Guidelines

Board members must not take part in the adjudication of any matter where they have a personal interest, or where they may reasonably be perceived as having a personal interest or bias. It is difficult to detail every situation which would give rise to a conflict of interest. The points listed below are examples of situations which should be avoided.

1. A board member should not sit on a case:
 - (a) where he or she has already formed, prior to the hearing, an opinion about how the issue in dispute should be decided.
 - (b) where he or she has made a public statement on the very issue to be adjudicated.
 - (c) where he or she is a member of an organization that has made a public statement on the very issue to be adjudicated. (Exceptions may be made after consultation with the Chair depending upon the Board member's role in the organization, the nature of the organization, the nature of the public statement, etc.)
 - (d) where a relative, close friend, business associate or co-worker, or former business associate or co-worker is a party, a witness, or is appearing as counsel. (Exceptions may be made after consultation with the Chair, in cases where the board member and associate or co-worker were members of a large organization and not closely associated with one another.)
 - (e) where a client or former client is a party, a witness or is appearing as counsel. (Exceptions may be made after consultation with the Chair, in cases of former clients for whom the board member has not acted for a considerable time.)
 - (f) where he or she has given legal advice in relation to the matter in dispute.
 - (g) if he or she is a party in another action where a similar issue is in dispute.
2. No board member may appear as counsel or as a representative in a hearing of the Board of Inquiry, nor provide any advice on the preparation of a case before the Board. (This does not prevent a board member from providing a member of the public with the factual information about how and where to make a complaint.)
3. No board member may appear as counsel in an appeal or judicial review application concerning the Board of Inquiry, or provide any advice in the preparation of such an appeal or judicial review application.
4. No board member may act as counsel for a police association, police chiefs' association, or a police services board.

5. A board member should not be a member of a law firm in which any of the partners or associates act in the types of cases or matters described in paragraphs 2, 3, and 4 above. (Exceptions may be made in consultation with the Chair in cases involving a large law firm acting under paragraph 4.)
6. No board member may be a current member of a police services board, or of a police association, or a police chiefs' association (except an association of retired persons or life members).
7. Board members may not accept any fee, gift, hospitality, or personal benefit, except compensation authorized by law, that is connected directly or indirectly with the performance of their duties as board members.
8. Board members may not solicit charitable donations or any personal benefits (such as employment, contracts, etc.) from any persons who are or have been parties, witnesses, or counsel before the Board, or from police officers or their organizations.
9. A board member must not use information acquired through membership on the Board of Inquiry, that is not available to the general public, in order to obtain any personal benefit. Any confidential information obtained through being a board member must be kept confidential.
10. These conflict of interest guidelines apply to persons who have ceased to be members of the Board of Inquiry, for a period of six months, or until all decisions in which they have participated have been released, whichever is later.

In any situation where board members have a conflict of interest (or think they might have a conflict of interest), this must be disclosed to the Chair. This should be done as soon as the member is contacted in relation to assignment of a case, or as soon as the conflict becomes apparent, whichever is sooner.

Where there is uncertainty as to whether a conflict exists, the issue should be raised and discussed with the Chair. The Chair makes the final decision as to which board members will hear a case, even after assignments have been made.

Where a conflict or potential conflict arises after a hearing has begun, the member should bring it to the attention of the other members presiding over the case. The Presiding Chair of the case can provide guidance as to how to proceed, and can determine whether it is necessary to consult the Chair of the Board.

Section 11 Code of Conduct (*Police Services Act*)

Section 56 of the *Police Services Act* sets out the definition of misconduct by listing a number of sections in the Act. In addition, s. 56(a) states that a police officer is guilty of misconduct if he or she "commits an offence described in a prescribed code of conduct". The Code of Conduct is found as a schedule to Regulation 927 of the *Police Services Act*. It is essentially the same as the Code of Offences in Regulation 791 of the former *Police Act*.

CODE OF CONDUCT

1. Any chief of police or other police officer commits an offence against discipline if he or she is guilty of,

- (a) DISCREDITABLE CONDUCT, that is to say, if he or she,
 - (i) acts in a disorderly manner, or in a manner prejudicial to discipline or likely to bring discredit upon the reputation of the police force,
 - (i.1) fails to treat or protect a person equally without discrimination with respect to police services because of that person's race, ancestry, place of origin, colour, ethnic origin, citizen citizenship, creed, sex, sexual orientation, age, marital status, family status or handicap,
 - (i.2) uses profane, abusive or insulting language that relates to a person's race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, marital status, or handicap,
 - (ii) is guilty of oppressive or tyrannical conduct towards an inferior in rank,
 - (iii) uses profane, abusive or insulting language to any other member of a police force,
 - (iv) wilfully or negligently makes any false complaint or statement against any member of a police force,
 - (v) assaults any other member of a police force,
 - (vi) withholds or suppresses a complaint or report against a member of a police force,
 - (vii) is guilty of an indictable offence or an offence punishable upon summary conviction under the *Criminal Code* (Canada), or
 - (viii) contravenes any provision of the *Police Services Act* or the regulations;

- (b) **INSUBORDINATION**, that is to say, if he or she,
 - (i) is insubordinate by work, act or demeanour, or
 - (ii) without lawful excuse, disobeys, omits or neglects to carry out any lawful order;
- (c) **NEGLECT OF DUTY**, that is to say, if he or she,
 - (i) without lawful excuse, neglects or omits promptly and diligently to perform a duty as a member of the police force,
 - (ii) idles or gossips while on duty,
 - (iii) fails to work in accordance with orders, or leaves an area, detachment, detail or other place of duty, without due permission or sufficient cause,
 - (iv) by carelessness or neglect permits a prisoner to escape,
 - (v) fails, when knowing where an offender is to be found, to report him or her or to make due exertions for bringing the offender to justice,
 - (vi) fails to report a matter that it is his or her duty to report,
 - (vii) fails to report anything that he or she knows concerning a criminal or other charge, or fails to disclose any evidence that he or she, or any person within his or her knowledge, can give for or against any prisoner or defendant,
 - (viii) omits to make any necessary entry in any official document or book,
 - (ix) feigns or exaggerates sickness or injury to evade duty,
 - (x) is absent without leave from or late for parade, court or any other duty, without reasonable excuse, or
 - (xi) is improperly dressed, dirty or untidy in person, clothing or equipment while on duty;
- (d) **DECEIT**, that is to say, if he or she,
 - (i) knowingly makes or signs a false statement in an official document or book,
 - (ii) knowingly makes or signs a false, misleading or inaccurate statement pertaining to official duties, or
 - (iii) without lawful excuse destroys or mutilates an official document or record or alters or erases an entry therein;

- (e) BREACH OF CONFIDENCE, that is to say, if he or she,
- (i) divulges any matter which it is his or her duty to keep secret,
 - (ii) gives notice, directly or indirectly, to any person against whom any warrant or summons has been or is about to be issued, except in the lawful execution of such warrant or service of such summons,
 - (iii) without proper authority communicates to the public press or to any unauthorized person any matter connected with the police force,
 - (iv) without proper authority shows to any person not a member of the police force or any unauthorized member of the force any book, or written or printed paper, document or report that is the property of the police force,
 - (v) makes any anonymous communication to the chief of police or superior officer or authority,
 - (vi) canvasses, except as authorized by the Act or the regulations, any person in respect of a matter concerning the police force,
 - (vii) signs or circulates a petition or statement in respect to a matter concerning the police force, except through the proper official channel or correspondence or established grievance procedure, or
 - (viii) calls or attends any unauthorized meeting to discuss any matter concerning the police force;
- (f) CORRUPT PRACTICE , that is to say, if he or she,
- (i) takes a bribe,
 - (ii) fails to account for or to make a prompt, true return of money or property received in an official capacity,
 - (iii) directly or indirectly solicits or receives a gratuity, present, pass, subscription or testimonial without the consent of the chief of police,
 - (iv) places himself or herself under a pecuniary or other obligation to a licensee concerning the granting or refusing of whose licence a member of the police force may have to report or give evidence,
 - (v) improperly use his or her character and position as a member of the police force for private advantage,

- (vi) in his or her capacity as a member of the police force writes, signs or gives, without the consent of the chief of police, a reference or recommendation to a member or former member of the police force, or any other police force, or
- (vii) without the consent of the chief of police, supports in any way an application for a licence of any kind;
- (g) **UNLAWFUL OR UNNECESSARY EXERCISE OF AUTHORITY**, that is to say, if he or she,
 - (i) without good and sufficient cause makes an unlawful or unnecessary arrest,
 - (ii) uses any unnecessary violence to a prisoner or other person contacted in the execution of duty, or
 - (iii) is uncivil to a member of the public;
- (h) **DAMAGE TO CLOTHING OR EQUIPMENT**, that is to say, if he or she,
 - (i) wilfully or carelessly causes waste, loss or damage to any article of clothing or equipment, or to any book, document or other property of the police force, or
 - (ii) fails to report waste, loss or damage however caused;
- (i) **CONSUMING INTOXICATING LIQUOR IN A MANNER PREJUDICIAL TO DUTY**, that is to say, if he or she,
 - (i) while on duty is unfit for duty through drinking intoxicating liquor,
 - (ii) reports for duty and is unfit for duty through drinking intoxicating liquor,
 - (iii) except with the consent of a superior officer or in the discharge of duty, drinks or receives from any other person intoxicating liquor on duty, or
 - (iv) demands, persuades or attempts to persuade another person to give or purchase or obtain for a member of the police force any intoxicating liquor, while on duty;
- (j) **LENDING MONEY TO A SUPERIOR**; or
- (k) **BORROWING MONEY FROM OR ACCEPTING A PRESENT FROM ANY INFERIOR IN RANK.**

2. Any chief of police or other police officer also commits an offence against discipline and shall be liable to punishment as provided in the regulation, if he or she connives at, abets or is knowingly an accessory to any offence against discipline under this code.

Section 12 Distribution of Board Decisions and Information

The Board of Inquiry places a high value having its decisions and procedures accessible to the public. In addition to the written reasons for each decision, the Board also produces summaries of these full text decisions. A copy of the 1996 Interim Rules of Practice of the Board of Inquiry is sent to parties and counsel involved in Board of Inquiry cases.

The following material is available on paper copy or computer diskette (WordPerfect 5.1):

- (a) Full text of all decisions and written rulings of the Board of Inquiry;
- (b) Case Summaries of all decisions and rulings of the Board of Inquiry (available in looseleaf pages, indexed, with regular updates);
- (c) Summaries of all of the decisions of the former boards of inquiry under the previous *Metropolitan Toronto Police Force Complaints Act* (these summaries were prepared for the informal use of the Board, and no guarantee of accuracy is made);
- (d) 1996 Interim Rules of Practice of the Board of Inquiry, including Forms;
- (e) Annual Reports (1992-93; 1993 and 1994; 1995); and
- (f) Board of Inquiry Information Sheet

[Note: Items (b), (d), (e) and (f) are available in French; Item (f) is available in eight languages]

Those wishing to obtain information on computer diskette should make a written request and send 3-1/2" or 5-1/4" blank high density diskettes formatted for WordPerfect 5.1. The letter of request should clearly state the information which is sought. Please note that the Board cannot provide cases or summaries by topic or issue. However, the Case Summaries are fully indexed by keywords and the names of parties.

For the time being, the Board of Inquiry is bearing the cost of distributing this information, so there is no charge to the public. This policy is subject to change.

Requests for information may be sent to:

Registrar
Board of Inquiry (*Police Services Act*)
Suite 1607, 180 Dundas Street West
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